	Application No.	Applicant(s)
Office Action Summary	10/540,977	TANIGUCHI, TOMOHIKO
	Examiner	Art Unit
	DEVONA E. FAULK	2615

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on <u>11 March 2008</u>.

2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) <u>16-18 and 21-33</u> is/are pending in the application.

   4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) <u>16-18 and 21-29</u> is/are rejected.

7) ☒ Claim(s) <u>30-33</u> is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☒ The drawing(s) filed on <u>27 May 2005</u> is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.

   Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

   Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

   a) ☒ All   b) ☐ Some *   c) ☐ None of:

   1. ☐ Certified copies of the priority documents have been received.

   2. ☐ Certified copies of the priority documents have been received in Application No. _____.

   3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

   * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
   Paper No(s)/Mail Date _____.

4) ☒ Interview Summary (PTO-413)
   Paper No(s)/Mail Date. <u>2/6/08</u>.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

1.   A request for continued examination under 37 CFR 1.114, including the fee set

forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this

application is eligible for continued examination under 37 CFR 1.114, and the fee set

forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action

has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 3/11/08

has been entered.

Response to Arguments

2.   Applicant's arguments, regarding the newly recited claim language, filed 3/11/08,

with respect to the rejection(s) of claim(s) 16-18,21-29 under 103(a) have been fully

considered and are persuasive. Therefore, the rejection has been withdrawn.

However, upon further consideration, a new ground(s) of rejection is made in view of

Chaudhri et al.

3.   Claims 1-15,19-20 are cancelled.

Claim Objections

4.   Claims 30-33 are objected to as being dependent upon a rejected base claim,

but would be allowable if rewritten in independent form including all of the limitations of

the base claim and any intervening claims.

Claim Rejections - 35 USC § 103

5.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the

invention was made to a person having ordinary skill in the art to which said subject matter pertains.
Patentability shall not be negatived by the manner in which the invention was made.

6.   **Claims 16-18, 21-29** rejected under 35 U.S.C. 103(a) as being unpatentable

over Dobbs et al. (US 5,566,237) in view of Elliot et al. (US 7,110,558) in further view of

Chaudhri et al. (US 7,343,566).

Regarding claim 16, Dobbs discloses a method of setting an audio output level

(see abstract) comprising:

storing a plurality of thresholds associated with clock time information

preliminarily (column 3, lines 43-48 teaches of inputting a data set into memory, the

data set comprising an activating time of day and stored variable attenuation

parameters; column 2, lines 45-column 3, line15; column 8, line 63- column 9, line 65);

selecting one of the plurality of thresholds corresponding to a current clock

time (step 206, column 7, lines 65-column 8, line 6, the user selects an equalization

/volume profile associated with an audio source, the equalization/volume profile having

an associated time of day and implicitly a threshold);

requesting an acknowledgment that a setting of the audio output level is to

be changed (column 8, lines 24-28 teaches that the user can rotate the rotary encoder

16, which provides the user with the option of choosing yes or not to decide if he or she

wishes to redo or change an equalization settings)

allocating a function of replying to the acknowledgement to an operation button

provided on at leas one of a remote control unit and main unit for a certain period of

time immediately after requesting the acknowledgement to an operation button (column

8, lines 24-28; rotary encoder 16 is pushed to acknowledge yes when the user wants to

make changes; Dobbs teaches that user input can be provided by rotary encoder 16 or

IR transmitter (18) which reads on remote column 4, lines 34-36).

Dobbs fails to disclose that the acknowledgment is requested when a

setting exceeds a selected threshold.

Modifying a volume setting when a value exceeds a threshold is known in

the art as taught by Elliot. Elliot discloses modifying the setting when the setting

exceeds a threshold (column 2, lines 10-19).

It would have been obvious to modify Dobbs so that the request for

acknowledgement is requested when a setting exceeds a threshold level to provide a

greater degree of volume control to the user.

Dobbs as modified fails to disclose ending the setting of the audio output level

after the certain period of time expires, if a reply via the operation button is not received.

Chaudhri discloses ending the setting of the audio output level after the certain

period of time expires, if a reply via the operation button is not received (column 7, lines

38-43). It would have been obvious to modify Dobbs as modified so that setting of the

audio output level ends if a reply via the operation button is not received for the benefit

so that the setting of the audio output level can stop automatically.

Regarding claim 17, Dobbs discloses a method of setting an audio output level

(abstract) comprising:

storing a plurality of thresholds associated with audio output device

information preliminarily (column 3, lines 43-48 teaches of inputting a data set into

memory, the data set comprising an activating time of day, a selected source and

stored variable attenuation parameters; column 8, line 63- column 9, line 65; possible

selected sources FM tuner and television tuner read on audio output device; column 4,

lines 58-61);

selecting one of the plurality of thresholds corresponding to a currently

connected audio device (step 206, column 7, line 58-column 8, line 6, the user selects

an equalization profile associated with an audio source, the equalization profile having

an associated time of day , associated audio device and implicitly a threshold);

and requesting an acknowledgment that a setting of the audio output level

is to be changed (column 8, lines 8-33)

requesting an acknowledgment that a setting of the audio output level is to be changed

(column 8, lines 24-28 teaches that the user can rotate the rotary encoder 16, which

provides the user with the option of choosing yes or not to decide if he or she wishes to

redo or change an equalization settings)

allocating a function of replying to the acknowledgement to an operation button

provided on at leas one of a remote control unit and main unit for a certain period of

time immediately after requesting the acknowledgement to an operation button (column

8, lines 24-28; rotary encoder 16 is pushed to acknowledge yes when the user wants to

make changes; Dobbs teaches that user input can be provided by rotary encoder 16 or

IR transmitter (18) which reads on remote column 4, lines 34-36).

Dobbs fails to disclose that the acknowledgment is requested when a

setting exceeds a selected threshold.

Modifying a volume setting when a value exceeds a threshold is known in the art as taught by Elliot. Elliot discloses modifying the setting when the setting exceeds a threshold (column 2, lines 10-19).

It would have been obvious to modify Dobbs so that the request for acknowledgement is requested when a setting exceeds a threshold level to provide a greater degree of volume control to the user.

Dobbs as modified fails to disclose ending the setting of the audio output level after the certain period of time expires, if a reply via the operation button is not received.

Chaudhri discloses ending the setting of the audio output level after the certain period of time expires, if a reply via the operation button is not received (column 7, lines 38-43). It would have been obvious to modify Dobbs as modified so that setting of the audio output level ends if a reply via the operation button is not received for the benefit so that the setting of the audio output level can stop automatically.

Regarding claim 18, Dobbs as modified discloses wherein each of the plurality of thresholds includes at least one of an upper limit and a lower limit (Dobbs; each equalization profile correspond to an equalization band that implicitly has an upper and lower limit ; column 8, lines 15-20).

Regarding claim 25, Dobbs as modified discloses changing the setting of the audio level only if an acknowledgment is given that the setting is to be changed (Dobbs; the user has to acknowledge that he or she wants to make a change by pushing the rotary encoder 16; column 8, lines 24-28).

Regarding claim 26, Dobbs as modified discloses changing the setting of the audio level only if an acknowledgment is given that the setting is to be changed with a given time after requesting the acknowledgement (Dobbs; the user has to acknowledge that he or she wants to make a change by pushing the rotary encoder 16 after the user has first rotated the rotary encoder which enables to indicate that he wish to make a change; column 8, lines 24-28).

Regarding claim 27, Dobbs as modified discloses changing the setting of the audio level only if an acknowledgment is given that the setting is to be changed (Dobbs; the user has to acknowledge that he or she wants to make a change by pushing the rotary encoder 16; column 8, lines 24-28).

Regarding claim 28, Dobbs as modified discloses changing the setting of the audio level only if an acknowledgment is given that the setting is to be changed with a given time after requesting the acknowledgement (Dobbs; the user has to acknowledge that he or she wants to make a change by pushing the rotary encoder 16 after the user has first rotated the rotary encoder which enables to indicate that he wish to make a change; column 8, lines 24-28).

Regarding claim 29, Dobbs as modified discloses wherein each of the plurality of thresholds includes at least one of an upper limit and a lower limit (Dobbs; each equalization profile correspond to an equalization band that implicitly has an upper and lower limit ; column 8, lines 15-20).

Regarding claim 21, Dobbs discloses a device for setting an audio output level

(Figure 1) comprising:

a storage unit operable to store a plurality of thresholds associated with

clock time information preliminarily (memory, Figure 1; column 3, lines 43-48 teaches of

inputting a data set into memory, the data set comprising an activating time of day and

stored variable attenuation parameters; column 2, lines 45-column 3, line15; column 8,

line 63- column 9, line 65);

a selecting unit operable to select one of the plurality of thresholds

corresponding to a current clock time (rotary encoder 16, Figure 1; column 7,line 48-

column 8, line 16; step 206, column 7, lines 65-column 8, line 6, the user selects an

equalization profile associated with an audio source, the equalization profile having an

associated time of day and implicitly a threshold);

and a requesting unit operable to request an acknowledgment that a

setting of the audio output level is to be changed (rotary encoder 16; column 8, lines 24-

28 teaches that the user can rotate the rotary encoder 16, which provides the user with

the option of choosing yes or not to decide if he or she wishes to redo or change an

equalization settings)

and allocating a function of replying to the acknowledgement for a certain

period of time immediately after requesting the acknowledgement to an operation

button and that the operation button is on at least one of a remote control and a

main unit (column 8, lines 24-28; rotary encoder 16 is pushed to acknowledge

yes when the user wants to make changes; Dobbs teaches that user input can

be provided by rotary encoder 16 or IR transmitter (18) which reads on remote

column 4, lines 34-36)column 8, lines 8-25; rotary encoder is pushed).

Dobbs fails to disclose that the acknowledgment is requested when a

setting exceeds a selected threshold.

Modifying a volume setting when a value exceeds a threshold is known in

the art as taught by Elliot. Elliot discloses modifying the setting when the setting

exceeds a threshold (column 2, lines 10-19).

It would have been obvious to modify Dobbs so that the request for

acknowledgement is requested when a setting exceeds a threshold level to a greater

degree of volume control to the user.

Dobbs as modified fails to disclose ending the setting of the audio output level

after the certain period of time expires, if a reply via the operation button is not received.

Chaudhri discloses ending the setting of the audio output level after the certain

period of time expires, if a reply via the operation button is not received (column 7, lines

38-43). It would have been obvious to modify Dobbs as modified so that setting of the

audio output level ends if a reply via the operation button is not received for the benefit

so that the setting of the audio output level can stop automatically.

Regarding claim 22, Dobbs as modified discloses a changing unit operable to

change the setting of the audio level only if an acknowledgment is given that the setting

is to be changed (Dobbs; the user has to acknowledge that he or she wants to make a

change by pushing the rotary encoder 16 after the user has first rotated the rotary

encoder which enables to indicate that he wish to make a change; column 8, lines 24-

28).

Regarding claim 23, Dobbs discloses a device for setting an audio output level

(Figure 1) comprising:

a storage unit operable to store a plurality of thresholds associated with

audio output device information preliminarily (memory, Figure 1; column 3, lines 43-48

teaches of inputting a data set into memory, the data set comprising an activating time

of day, a selected source and stored variable attenuation parameters; column 2, lines

45-column 3, line15; column 8, line 63- column 9, line 65; possible selected sources

include FM tuner and television tuner read on audio output device; column 4, lines 58-

61);

a selecting unit operable to select one of the plurality of thresholds

corresponding to a currently connected audio output device (rotary encoder 16, Figure

1; column 7,line 48- column 8, line 16; step 206, column 7, lines 65-column 8, line 6, the

user selects an equalization profile associated with an audio source, the equalization

profile having an associated time of day and implicitly a threshold);

and a requesting unit operable to request an acknowledgment that a

setting of the audio output level is to be changed (rotary encoder 16; column 8, lines 24-

28 teaches that the user can rotate the rotary encoder 16, which provides the user with

the option of choosing yes or not to decide if he or she wishes to redo or change an

equalization settings)

and allocating a function of replying to the acknowledgement for a certain

period of time immediately after requesting the acknowledgement to an operation

button and that the operation button is on at least one of a remote control and a

main unit (column 8, lines 24-28; rotary encoder 16 is pushed to acknowledge

yes when the user wants to make changes; Dobbs teaches that user input can

be provided by rotary encoder 16 or IR transmitter (18) which reads on remote

column 4, lines 34-36)column 8, lines 8-25; rotary encoder is pushed).

Dobbs fails to disclose that the acknowledgment is requested when a

setting exceeds a selected threshold.

Modifying a volume setting when a value exceeds a threshold is known in

the art as taught by Elliot. Elliot discloses modifying the setting when the setting

exceeds a threshold (column 2, lines 10-19).

It would have been obvious to modify Dobbs so that the request for

acknowledgement is requested when a setting exceeds a threshold level to a greater

degree of volume control to the user.

Dobbs as modified fails to disclose ending the setting of the audio output level

after the certain period of time expires, if a reply via the operation button is not received.

Chaudhri discloses ending the setting of the audio output level after the certain

period of time expires, if a reply via the operation button is not received (column 7, lines

38-43). It would have been obvious to modify Dobbs as modified so that setting of the

audio output level ends if a reply via the operation button is not received for the benefit

so that the setting of the audio output level can stop automatically.

Regarding claim 24, Dobbs as modified discloses a changing unit operable to

change the setting of the audio level only if an acknowledgment is given that the setting

is to be changed (Dobbs; the user has to acknowledge that he or she wants to make a

change by pushing the rotary encoder 16 after the user has first rotated the rotary

encoder which enables to indicate that he wish to make a change; column 8, lines 24-

28).

Conclusion

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to DEVONA E. FAULK whose telephone number is

(571)272-7515. The examiner can normally be reached on 8 am - 5 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Vivian Chin can be reached on 571-272-7848. The fax phone number for

the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see http://pair-direct.uspto.gov. Should

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a

USPTO Customer Service Representative or access to the automated information

system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Devona E. Faulk/
Examiner
Art Unit 2615
5/17/2008